

Attorney Docket No.: ASSIA 20.741 (056730-00070)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Ofir Zohar
Confirmation No: 8317
Serial No.: 10/706,676
Filed: November 12, 2003
Title: **Distributed Task Queues In A Multiple Port...**
Examiner: Michael B. McFadden
Group Art Unit: 2188

April 21, 2008

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

INTERVIEW AGENDA

Sir:

In response to the non-final Office Action dated January 9, 2008, Applicants respectfully request an Interview with the Examiner and his supervisor at 2 p.m. on April 23, 2008.

In the present invention, there are multiple LUs, and multiple ports maintaining an LU command queues for each of the plurality of LUs (see figures 1 and 2). Additionally, *each port* is adapted to communicate *with all of the LUs*, and has *a command queue for each of the LUs*. It is respectfully submitted that not only does Sharma not disclose the feature of multiple LUs, but Sharma also does not disclose *ports having multiple command queues*, and even more specifically, each of the multiple ports having an LU command queue for each of the multiple LUs. Even assuming *arguendo* that Sharma discloses a single port with a single command queue,

duplicating such a system, which is also respectfully not conceded, does not disclose or suggest a storage system having a plurality of LUs and a plurality of ports, each port being adapted to maintain a plurality of LU command queues, each of the plurality of LU command queues corresponding to a respective one of the LUs.

Additionally, the Office Action does not address the specific arguments presented in favor of claims 9, 19, and 20. In particular, regarding claims 19 and 20, no citation or support is provided for the rejections, and a mere statement that “[i]t would be apparent to one of ordinary skill in the art” Applicants have no basis for responding to this incomplete rejection. As the MPEP states:

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, ***the examiner should set forth in the Office action:*** (A) the relevant teachings of the prior art relied upon, preferably ***with reference to the relevant column or page number(s) and line number(s) where appropriate,***

(MPEP 706.02(j); Contents of a 35 U.S.C. 103 Rejection; emphasis added). Applicants have previously requested proper citations to references disclosing the features of the claims, and have still not received a response. The Examiner apparently argues from inherency or personal knowledge. In either case, Applicants respectfully request a citation to Sharma, or a proper argument for inherency, or alternatively that the rejections be withdrawn.

Applicants also again object to the improper reliance on Official Notice regarding claims 4, 13, and 21-26, and which has now been expanded to form the basis for the rejections of new claims 27-30. Applicants respectfully request a citation in support of each feature rejected based on Official Notice, as required by MPEP 2144.03. As the MPEP states, “[i]n certain circumstances where appropriate, an examiner may take official notice of facts not in the record

or rely on ‘common knowledge’ in making a rejection, however *such rejections should be judiciously applied*’. (MPEP 2144.03; emphasis added). MPEP 2144.03 further states:

Any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be *judiciously applied*. Furthermore, as noted by the court in Ahlert, any facts so noticed should be of notorious character and *serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing* made by the examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. See Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697; Ahlert, 424 F.2d at 1092, 165 USPQ 421.

(emphasis added). Applicants therefore specifically point out the errors in the Office Action by stating why the noticed fact is not considered to be common knowledge or well-known in the art. The Examiner improperly relies on personal knowledge, thereby undermining the prosecution process by depriving the Applicant of the opportunity to examine and analyze the references. It is also respectfully submitted that there is no proper motivation presented for modifying Sharma, since the mere availability of alternative methodologies does not provide a proper motivation to modify a reference.

Respectfully submitted,

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